

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

GINA CHAMPION-CAIN, an individual;
LUV SURF, LP, a California limited
partnership; ANI COMMERCIAL CA I,
LLC, a California limited liability
company; and ANI COMMERCIAL CA
II, LP, a California limited partnership,

Plaintiffs,

v.

BRIAN MACDONALD, an individual;
LOVESURF, INC., a Delaware
corporation; and DOES 1-10, inclusive,

Defendants.

Case No.: 3:14-cv-02540-GPC-BLM

ORDER:

**(1) GRANTING MOTION TO
STRIKE ANSWER AND DISMISS
COUNTERCLAIM OF DEFENDANT
LOVESURF, INC. (ECF No. 132);**

**(2) DIRECTING CLERK OF THE
COURT TO ENTER DEFAULT AS
TO DEFENDANT LOVESURF, INC.;**

**(3) DENYING AS MOOT
PLAINTIFFS' EX PARTE MOTION
TO ALLOW WITNESS TO TESTIFY
TELEPHONICALLY AT TRIAL
(ECF No. 145) AND MOTION TO
EXCLUDE EVIDENCE OF
DAMAGES INCURRED BY
DEFENDANTS (ECF No. 109)**

**I. Motion to Strike Answer and Dismiss Counterclaim of Defendant
Lovesurf, Inc. (Dkt. No. 132)**

On January 17, 2017, Plaintiffs and Counter-Defendants Gina Champion-Cain,
Luv Surf, L.P., ANI Commercial CA I, LLC, and ANI Commercial CA II, L.P.'s

(collectively, “Plaintiffs”) filed a motion to strike the answer of Defendant Lovesurf, Inc., strike the counterclaim of Defendant Lovesurf, Inc., and enter default as to Defendant Lovesurf, Inc. on the grounds that Lovesurf, Inc. cannot proceed in the instant litigation without counsel. (Dkt. No. 132.)

The Court conducted a hearing on the matter on February 17, 2017. (Dkt. No. 148.) Geoffrey Thorne, Esq. appeared on behalf of Plaintiffs. (*Id.*) Brian MacDonald appeared *in propria persona*. (*Id.*)

Mr. MacDonald represented to the Court at the hearing that Lovesurf, Inc. is not represented by counsel, and that he intends to proceed *pro se* in the instant action. As a corporation, Lovesurf, Inc. may not appear in this Court unrepresented. *See* CivLR 83.3 (“All other parties, including corporations, partnerships and other legal entities, may appear in court only through an attorney permitted to practice pursuant to Civil Local Rule 83.3.”). Accordingly, the Court **GRANTS** Plaintiffs’ motion to strike Defendant Lovesurf, Inc.’s answer and dismiss Defendant Lovesurf, Inc.’s counterclaim.

II. Entry of Default

In accordance with the above, and pursuant to Federal Rule of Civil Procedure 55(a), the Court **DIRECTS** the Clerk of the Court to enter default as to Defendant Lovesurf, Inc.

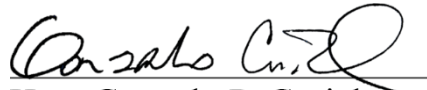
III. Plaintiffs’ *Ex Parte* Application To Allow Witness Carol Haggerty to Testify Telephonically At Trial (Dkt. No. 145) and Motion *in Limine* to Exclude Evidence of Damages Incurred by Defendants (Dkt. No. 109)

In light of the fact that the jury trial set for February 21, 2017 has been vacated, (Dkt. No. 148), the Court accordingly **DENIES AS MOOT** Plaintiffs’ *ex parte* application to allow Ms. Haggerty to testify telephonically at trial (Dkt. No. 145) and motion *in limine* to exclude evidence of damages incurred by Defendants (Dkt. No. 109).

IT IS SO ORDERED.

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1 Dated: February 17, 2017

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3 Hon. Gonzalo P. Curiel
4 United States District Judge

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6 cc:
7 Brian MacDonald
8 32158 Camino Capistrano #104-501
9 San Juan Capistrano, CA 92675-3720
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